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BEFORE THE ARIZONA CORPORATION COMMISSION

0508

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AZ CORP COMMISSION  
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IN THE MATTER OF THE APPLICATION OF  
ARIZONA-AMERICAN WATER COMPANY  
FOR APPROVALS ASSOCIATED WITH A  
TRANSACTION WITH THE MARICOPA  
COUNTY MUNICIPAL WATER  
CONSERVATION DISTRICT NUMBER ONE.

Docket No. W-01303A-05-0718

Arizona Corporation Commission  
**DOCKETED**

APR 17 2007

**RUCO'S CLOSING BRIEF**

DOCKETED BY

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**INTRODUCTION**

The Residential Utility Consumer Office ("RUCO") submits this Brief in support of its position that the Arizona Corporation Commission ("Commission") should approve Arizona American Water Company's ("Arizona American" or "Company") Hook-Up Fee proposal outlined in its Revised Application. RUCO prefers the Company's second option<sup>1</sup> of approving a hook-up fee that would start at \$4,700 for a 5/8 by 3/4-inch meter. The second option results in lesser accruals of AFUDC, which would temporarily flow into customers' rates. RUCO has no objection to the issuance of an accounting order as requested. Finally, RUCO does not object to the Company seeking in its 2008 rate case adjustments to the Hook-Up Fees and a mechanism to recover operation and maintenance costs for the White Tanks Plant. However,

<sup>1</sup> The Company's first option would proposes a hook-up fee that would start at \$1,150 for a 5/8 by 3/4-inch meter

1 RUCO requests that the Commission indicate in its Decision on this application that it is not  
2 predetermining the appropriateness of any such modifications to the Hook-Up Fee or the  
3 appropriateness of any mechanism to recover operation and maintenance costs.

4  
5 **THE COMMISSION DOES NOT HAVE TO, NOR SHOULD IT CONSIDER THE DISTRICT'S**  
6 **REQUEST TO DETERMINE THE PRUDENCY OF THE COMPANY'S DECISION TO BUILD**  
7 **THE WHITE TANK PLANT.**

8 When the smoke clears, the Maricopa County Municipal Water Conservation District  
9 Number One ("MWD" or "District") is asking the Commission to pre-determine the prudence of  
10 the Company's White Tank plant proposal. The District believes that its plant proposal is  
11 superior to the Company's proposal in terms of cost, profit motive, integration with other  
12 operations and impact on landowners. D-45 at 7<sup>2</sup>. Most of the testimony in this proceeding  
13 has involved the consideration of the estimated costs that both the District and the Company  
14 would spend in building the White Tank Plant. Other issues that have been examined at  
15 length include the different timelines required to build the new plant as well as the underlying  
16 motivations of the District and the Company. While all of this is very interesting, the  
17 Commission does not have to, nor should it make a decision based on any of it.

18 The Company, not the District, has the Certificate of Convenience and Necessity  
19 ("CC&N") to serve the service territory in question. It is the Company which is obligated to  
20 provide water service to its customers. It is the Company that is responsible for building the  
21 plant necessary to serve its customers. The Company is not asking the Commission to build  
22 the plant, it is asking the Commission to approve a method of financing the construction. The

23 <sup>2</sup> For ease of reference, trial exhibits will be identified similar to their identification in the Transcript of  
24 Proceedings. The transcript volume number will identify references to the transcript.

1 Company's proposed method of financing the construction is the narrow issue that the  
2 Commission is being asked to determine and it should limit its decision to that narrow issue.

3 The District is requesting the Commission reject the Company's proposed method of  
4 financing and in the Commission's analysis address a far bigger issue – who should build the  
5 plant. While the District claims it is the Company that is requesting “a radical abandonment of  
6 ratemaking principals” by its financing proposal, it is the District that is asking the Commission  
7 to consider an extraordinary ratemaking procedure. Comments of the District at 1. It is  
8 standard ratemaking practice for a utility to build the necessary infrastructure to meet its service  
9 obligations. After the infrastructure is completed, the utility seeks cost recovery in a rate case  
10 proceeding - the costs are known as well as whether the plant is used and useful. The  
11 Commission, in its analysis, also considers the prudence of the costs incurred. In this manner,  
12 the Commission is able to analyze the necessity and appropriateness of the costs.

13 Instead, the District is asking the Commission to compare its estimated costs to build  
14 the plant to the Company's estimated costs to build the plant. There is no guarantee that the  
15 estimates will be the same as the actual costs nor that all the costs will result in plant that is  
16 ultimately determined to be used and useful. In essence, the District is asking the Commission  
17 to put the cart before the horse and determine prudence based on estimated costs. In other  
18 words, the District is asking the Commission to determine whether or not the Company can  
19 build the necessary plant to meet its service obligations based on speculation as to what those  
20 costs may be. Such a procedure is implausible, offends the notion of what is fair and  
21 reasonable, and should be rejected by the Commission.

22 Moreover, the District's request, if approved, is likely to result in the abrogation by the  
23 Commission of its ratemaking authority. The Company has testified that if its hook-up proposal  
24 is rejected by the Commission, it will not build the White Tank Plant – at least for the time

1 being. Transcript at 317. With no other water source that the District is aware of in the White  
2 Tank area, the Company will have no choice but to purchase its capacity from the District's  
3 new treatment plant. Id. at 490. According to the District, this will most likely occur in long  
4 term capacity contracts bargained for between the Company and the District. Transcript at  
5 598. Clearly, the District being the only source of treatment capacity will be in a far better  
6 bargaining position than the Company. Coupled with the fact that the District and the  
7 Company have a long history of unsuccessful negotiations, it is not difficult to imagine a  
8 scenario where the ratepayers' interests are overlooked.

9       The most likely scenario would involve the rates the District charges the Company. The  
10 District is an unregulated entity and therefore not subject to the Commission's oversight.  
11 When asked whether the District would agree to submit its capacity contracts to the  
12 Commission for final approval, the District answered in the negative. Transcript at 598. The  
13 District also testified that that it is not willing to submit to the rate and other jurisdiction of the  
14 Commission. Transcript at 554. Hence, it would be the District, and not the Commission  
15 setting rates which is likely to be contrary to the best interests of the rate payers<sup>3</sup>. The  
16 Commission should not abrogate its ratemaking authority to the District.

17       There are other reasons why the Commission should reject the District's attempt to  
18 block the Company from building the plant. For example, if the District were successful in this  
19 matter, and then built the plant and later decided to sell the plant, the District, not the  
20 Commission would decide how any profit would be distributed. Again, it is unlikely that  
21 ratepayers would benefit from this situation. Whereas, if the Company built the plant and  
22

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23 <sup>3</sup> For example, there are some ratepayers that are not landowners – this would include residents of  
24 Verrado. Transcript at 488. The District admits it would not have the same level of commitment to the  
Company's Verrado customers as it would have to the District's landowners. Transcript at 491-492.

1 subsequently sold it, the Commission would ultimately decide if ratepayers were entitled to a  
2 portion of any gain on the sale.

3 Perhaps more disconcerting is the message that the Commission would send if the  
4 District's proposal was approved. The message would be clear that the Commission is willing  
5 to disregard standard ratemaking practice and second guess beforehand a utility's decision to  
6 build infrastructure necessary to perform its obligation to service its customers. The  
7 consequences of such a message could have a chilling affect on how utilities conduct their  
8 business in the future.

9  
10 **THE COMMISSION SHOULD APPROVE THE COMPANYS HOOK-UP FEE REQUEST TO**  
11 **FINANCE CONSTRUCTION OF THE WHITE TANKS PLANT**

12 There is no dispute that the Company is not in the position to finance the construction at  
13 this time and seek recovery of its investment after the facility is completed. The Company's  
14 request, to finance the construction with increased hook-up fees is reasonable.

15 The facts, which are not in dispute, are that the Company needs to serve its customers  
16 and construction of a treatment plant is necessary to meet the Company's service  
17 requirements. The Company is unable to finance the new plant at this time and financing the  
18 plant through increased hook-up fees is a cost-free source of financing. Rigsby rebuttal at 4.  
19 Moreover, the hook-up fees will be booked as Contributions In Aid Of Construction ("CIAC")  
20 which has the effect of decreasing ratebase and lowering rates. Id. at 5. The Company's  
21 proposal is reasonable and should be adopted by the Commission.

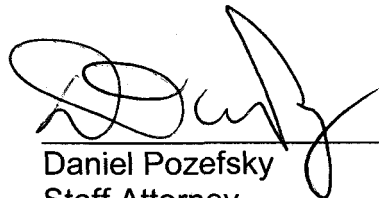
22 The Company has proposed two hook-up fee alternatives both of which would increase  
23 hook-up fees to finance construction of the plant. RUCO recommends that the Commission  
24 adopt the alternative (Option 2) which provides for the greater increase in the hook-up fees.

1 The greater the increase in hook-up fees, the lower the amount of AFUDC accruals, which  
2 translates to today's rates being lower than otherwise would be the case.

3  
4 **CONCLUSION**

5 The Commission should approve the Company's increased Hook-Up Fee proposal to  
6 finance the cost of the White Tank Treatment plant. RUCO recommends the Commission  
7 approve the Company's second option of a hook-up fee that would start at \$4,700 for a 5/8 by  
8 3/4-inch meter. RUCO does not object to the Company's request for an accounting order.  
9 However, RUCO requests that the Commission indicate in its Decision on this application that  
10 it is not predetermining the appropriateness of any such modifications to the Hook-Up Fee or  
11 the appropriateness of any mechanism to recover operation and maintenance costs.

12  
13 RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of April 2007

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17  
18  
  
Daniel Pozefsky  
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19 AN ORIGINAL AND THIRTEEN COPIES  
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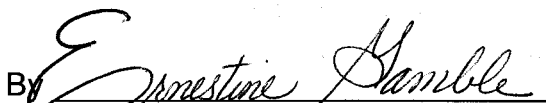
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